

### REMARKS

This Paper and Petition for a three month Extension of Time are filed in response to the Office Action mailed April 29, 2005 having a shortened statutory response period that ended on July 29, 2005. This response is filed within three months of the shortened response period, namely October 29, 2005. The Commissioner is hereby authorized to charge any additional fees to Deposit Account No. 02-1818.

The indication of allowable subject matter in claims 39-42 and 45-49 is noted with appreciation. Attorney for Applicants would also like to thank Examiner Pascua for the courtesies extended during a telephone conversation on July 25, 2005.

Claims 2, 6-8, 12, 14-15, 17-19, 22, 28, 30, 31, and 52-55 were rejected under 35 U.S.C. §102(b) for allegedly being anticipated by *Vallot*. Claims 2, 6-8, 12, 14-15, 17-19, 22, 23, 30, 31, 36-38, 43-44, and 52-56 were rejected under 35 U.S.C. §103(a) as for allegedly being obvious in view of *Vallot*. Claims 29 and 51 were rejected under 35 U.S.C. §103(a) as being obvious over *Vallot* in view of U.S. Patent No. 5,788,121 to Sasaki et al. (*Sasaki*). Claims 24-28 have been canceled. Applicants respectfully traverse these rejections as *Vallot* and *Sasaki*, fail to teach or suggest the subject matter recited in the present claims.

*1. Vallot Fails to Disclose an Angle Range of 135.01° to 138° With Sufficient Specificity*

*Vallot* fails to disclose the recited angle range of 135.01° to 138° with sufficient specificity. The MPEP is clear that when a reference 1) discloses a broad range that overlaps a claimed range yet 2) fails to provide a specific example within the claimed range, and 3) evidence exists of unexpected results within the claimed narrow range, the narrow range is not disclosed with “sufficient specificity” to constitute an anticipation of the claims. MPEP § 2131.03. *Vallot* discloses a sachet with an end panel having a broad angle range of 30°-60° (which translates to 120°-150° with respect to the present claim language) between the panel peripheral edge and an end segment tapered edge. *Vallot*, col. 3 lines 9-11, col. 4 lines 33 through 37, col. 5 lines 53-55. However, as discussed in

detail below, *Vallot* fails to provide a single example of a container having an angle range of 135.01° to 138°. Moreover, Applicants have provided evidence of unexpected results for a container having the claimed range of 135.01° to 138°. Applicants respectfully request that the Examiner evaluate this application according to the “case by case” review standard as set forth in MPEP § 2131.03.

*a. Vallot Fails to Provide an Example Within the Claimed Angle Range of 135.01°-138°*

*Vallot* discloses a sachet with an end panel having an angle range of 30°-60° (which translates to 120°-150° with respect to the present claim language) between the panel peripheral edge and an end segment tapered edge. *Vallot*, col. 3 lines 9-11, col. 4 lines 33 through 37, col. 5 lines 53-55. *Vallot* further discloses that the filled sachet has a parallelepiped shape and conforms exactly to the geometry of a rigid support container. *Vallot*, col. 2 lines 1-8, col. 5 lines 50-55. However, containers within *Vallot*'s angle range of 30°-60° (120°-150°) fail to conform exactly to the geometry of the rigid support container. A container with an angle of 120° (30°) does not conform exactly to the support container geometry and is unworkable. See Affidavit of William S. Hurst (hereinafter *Hurst Affidavit*) at ¶¶ 3-9 set forth at Tab 1. Similarly, a container with an angle of 150° (60°) also does not conform exactly to the support container geometry and likewise is unusable. *Id.* Thus, the skilled artisan would realize that *Vallot*'s broad angle range of 30°-60° (120°-150°) fails to teach or suggest the narrow angle range of 135.01°-138° particularly in view of the nonworkable containers provided in *Vallot*'s broad angle range. *Hurst Affidavit*, ¶ 9.

In addition, *Vallot* fails to provide a single example of a container having the claimed angle range of 135.01° to 138°. Rather, *Vallot* is replete with numerous statements directed to a container having an angle of 45° (135°), a container that is a parallelepiped shape when filled, and a container having a bottom face and a top face that are parallel to each other. *Vallot*, abstract, col. 1 line 66 through col. 2 line 5, col. 3 lines

9-15, col. 4 lines 33-38, col. 5 lines 55-60, FIG. 2. These numerous statements clearly indicate to one of ordinary skill in the art that the parallelepiped *Vallot* container has an angle of 45°, with top and bottom faces that are parallel to each other. *Hurst Affidavit*, ¶ 9-10; *see also* Affidavit of Sidney T. Smith (hereinafter *Smith Affidavit*) at ¶¶ 6-7 set forth at Tab 2. Consequently, *Vallot* lacks an example of a container having an angle in the recited range of 135.01° to 138°. As *Vallot*'s broad angle range of 30°-60° (120°-150°) includes nonworkable containers, and *Vallot* fails to provide a single example of a container within the claimed angle range of 135.01° to 138°, *Vallot* fails to disclose the claimed angle range with sufficient specificity. Applicants respectfully submit that *Vallot* and is non-anticipatory art in accordance with MPEP § 2131.03.

*b. The Recited Angle Range of 135.01°-138° Yields Unexpected Results*

The claimed container with an angle range of 135.01° to 138° yields unexpected results. The angle range of 135.01° to 138° surprisingly and unexpectedly provides for full support of the flexible container while minimizing wrinkling. *Hurst Affidavit* at ¶ 11, *Smith Affidavit* at ¶¶ 4-5. The parallelepiped container of *Vallot* fails to adequately address the problem of full support within the support container. *Hurst Affidavit* at ¶ 7. *Vallot* fails to appreciate the problems associated with wrinkling. *Vallot* has no teaching or suggestion directed to a large volume flexible container having the unexpected results of i) rupture resistant end panels and ii) a wrinkle-free container that occur as a result of the angle range of 135.01° to 138° as recited in the present claims. As *Vallot*'s broad angle range includes nonworkable containers, *Vallot* fails to provide a specific example of a container having an angle within the range of 135.01-138, and the present container demonstrates unexpected results, *Vallot* fails to teach or suggest the subject matter recited in the present claims.

*Sasaki* fails to fulfill the deficiencies of *Vallot*. In contrast, *Sasaki* teaches away from the recited 200L container as *Sasaki* discloses bags having a volume of 5-20L.

*Sasaki*, col. 11 lines 44-47. Moreover, the skilled artisan would appreciate that the design requirements for a flexible container for containing at least 200L of fluid are unique when compared to flexible containers for smaller volumes. See *Smith Affidavit* at ¶ 3. In addition, *Sasaki* has no disclosure whatsoever directed to a flexible container having end segments with tapered peripheral edges.

### CONCLUSION

For the foregoing reasons, Applicants respectfully submit that the claims are in a condition for allowance and request early notification of the same.

Respectfully submitted,

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